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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4883 OF 1997

Pritesh S. Lapasia ... Petitioner

V/s

State of Maharashtra & ors. ... Respondents

Mr. D.B. Savant with Rajiv Deokar and Santosh Patil for the petitioner.

Mr. R.M. Patne, A.G.P. for respondent Nos. 1 to 3.

Mr. Lalit Jain i/by Mr. Sanjay T. Manek for the respondent No.4.

CORAM: S. B. MHASE &
SMT. NISHITA MHATRE, JJ.

DATED: 5TH MARCH, 2007.

P.C.:

1. Heard.

2. The petitioner has approached to this Court under Art. 226 of the Constitution of India challenging the order passed by the Minister for Food and Civil Supplies in Revision No. VAT/1095/1442/6416/NO.23 of 1995. The petitioner is interested in old Item No. 1776, new Item No.535 i.e. the ration shop to be allotted. By the said order the Minister has dismissed the revision

application filed by the petitioner and granted the said shop in favour of respondent No.4 allowing the revision filed by the respondent No.4. It appears that, in respect of the said ration shop, (1) M/s. Bhanushali Consumer Co-op. Society Ltd., (2) The Bombay Milk Scheme Staff Co-op. Canteen & Stores Ltd., (3) Shri Jairam Hirji Bhanushali; and (4) Shri Pritesh Shantilal Lapasia, the petitioner, had made applications.

3. The petitioner in his application has stated that shop will be opened in the premises of Aarey Milk Colony since the authorities of the Aarey Milk Scheme have given no objection certificate in his favour. It appears that the Co-operative Society of Bombay Milk Scheme also desires to continue for the said shop and, therefore, by order dated 29.3.1979, the Chief Executive Officer of the Aarey Milk Colony had withdrawn the No Objection Certificate granted in favour of the petitioner. The petitioner, therefore, has approached this Court by filing Writ Petition No. 571 of 1997 which was decided on 17.4.1997. The said petition was allowed and order passed by the Chief Executive Officer, Aarey Milk Colony on 29.3.1997 withdrawing No Objection Certificate was set aside holding that the principles of natural justice were not followed by the Chief Executive Officer, Aarey Milk Colony while withdrawing the said No

Objection Certificate. However, this Court directed the Minister to hear the petitioner, intervenors and so also the Chief Executive Officer, Aarey Milk Colony. However, it transpires that while the revision was disposed of, the Chief Executive Officer of Aarey Milk Colony was not heard, only the intervenors were heard.

4. Today, it appears that the respondent No.4 to whom the shop was allotted by this order has come forward with a statement that he do not want the shop old Item No.1776, new Item No.535, because according to him, he has been granted with some other shop. Therefore, he has given up the claim in respect of the disputed shop. Under these circumstances, whether the disputed shop should be continued with the petitioner or not and whether the Chief Executive Officer is willing to allow the said shop to be run in the premises of the Aarey Milk Colony are the questions.

5. Taking into consideration these aspects, we set aside the impugned order passed by the Minister. We remit back the matter to the Minister of the Food and Civil Supplies, State of Maharashtra, with a further direction to consider as to whether the shop in question is to be continued with the petitioner or not, after giving hearing to the Chief Executive Officer of Aarey

Milk Colony.

6. The interim stay which this Court had granted in this petition shall continue till the Minister re-hear and dispose of the matter. The Minister is further directed to dispose of the matter within a period of six months from today.

7. Petition disposed of accordingly.

(SMT. NISHITA MHATRE, J.) (S.B. MHASE, J.)